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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,701	07/28/2008	Ray Blotteaux	1912-0353PUS1	4497
2292 7590 03/14/2011 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER GRAHAM, MARK S				
ART UNIT 3711		PAPER NUMBER		
NOTIFICATION DATE 03/14/2011		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/590,701

Applicant(s)

BLOTTEAUX ET AL.

Examiner

Mark S. Graham

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-27, 29-53 is/are rejected.
- 7) ☒ Claim(s) 6 and 28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date 8/13/09
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

Claims 6 and 28 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim must refer back to a claim in the alternative only. See MPEP § 608.01(n). Accordingly, the claims 6 and 28 have not been further treated on the merits.

Claims 11 and 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not understood with regard to claims 11 and 33 how, if the first and second faces are coplanar they can form an angled groove as required by claims 1 and 23 on which they are dependent respectively.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 45-47 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Leduke et al. (LeDuke) '548.

Claims 48 and 49 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Gardner et al. '245 (Gardner).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 8-15, 22-27, 30-37, 44, and 50-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calapp et al. '696 in view of Filice et al. '678 (Filice).

Calapp discloses a shaft having the major and minor surfaces as claimed with the exception of the angled grooves at the edges housing elastomeric material. However, as disclosed by Filice it is known in the art to provide such grooves at the edges filled with elastomeric material for gripping purposes. It would have been obvious to one of ordinary skill in the art to have included such at Calapp's edges as well for gripping purposes.

Regarding claims 3-5 and 25-27, Filice does not provide the particular angle used for the angled grooves such as depicted in Fig. 3. However, absent a showing of unexpected results the exact angle of the groove would have been up to the ordinarily skilled artisan depending on the degree of elastomeric gripping surface one wished to expose at the corners of the shaft.

Concerning claims 8, 9, 30, and 31, the angled portion at which the faces meet forms a groove meeting the limitations of the claims.

With regard to claims 10 and 32, note that Filice in Fig. 8 also teaches an undulating exterior shape for the elastomeric material at 356, 390, 360. It would have been obvious to one of ordinary skill in the art to have used such an exterior shape for the Fig. 3 type elastomeric corner portions as well if such a gripping surface were preferred by the user.

Regarding claims 11 and 33, note that Filice in Fig. 8 also teaches a corner portion with coplanar surfaces to provide the elastomeric portions as at element 392. It would have been obvious to one of ordinary skill in the art to have used such an exterior shape on Calapp's corners as well if such a gripping surface were preferred by the user.

With regard to claims 13-15 and 35-37, note that Filice in Figs. 4-7 also teaches an arc segment exterior shape for the elastomeric material. It would have been obvious to one of ordinary skill in the art to have used such an exterior shape for the Fig. 3 type elastomeric corner portions as well if such a gripping surface were preferred by the user.

Concerning claims 50-53 note that Filice at Col. 3, line 38 teaches that the elastomeric portion may be formed by injection molding which inherently comprises using mold sections an injection of the material to be molded. The actual temperature and pressure used would obviously have been dependent on the type of elastomeric material one wished to use in the forming the grip portions. Absent a showing of unexpected results it would have been obvious to one of ordinary skill in the art to have used temperatures and pressures as claimed to mold a particular type of elastomeric material when forming grip portions on a Calapp type shaft.

Claims 7, 16-21, 29, and 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1 and 23 above, and further in view of Leduke.

Note Leduke at Col. 3, lines 49-52, wherein it is disclosed when applying elastomeric material to a hockey stick it is known to use grooves in the stick surface to

"grab" the material to be molded to the stick. It would have been obvious to one of ordinary skill in the art to have used such "grooves" or "depressions" on the faces of the angled surfaces of the Calapp/Filice shaft at whatever angle relative to the angled groove was deemed to best "grab" the elastomeric material to "grab" the elastomeric material. Regarding claims 19-21 and 41-43, the portions of the faces between such grabbing grooves are considered raised portions.

The other prior art cited on the PTO '892 form has been provided to show other articles which are similar to that claimed by applicant.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 571-272-4410.

MSG
3/9/11

/Mark S. Graham/
Primary Examiner, Art Unit 3711